

# UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF INDIANA

FILED-

[Use this form to sue for employment discrimination. NEATLY print in ink (or type) your answers.]

MAY 19 2022

Dell L. Battle Sr.

[You are the PLAINTIFF, print your full name on this line.]

v.

Gary Community School Corporation

[The DEFENDANT is who you are suing.]

At  
GARY T. BELL, Clerk  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA

Case Number

2:22CV0141

[For a new case in this court, leave blank.]

The court will assign a case number.]

[The top of this page is the caption. Everything you file in this case must have the same caption. Once you know your case number, it is VERY IMPORTANT that you include it on everything you send to the court for this case. DO NOT send more than one copy of anything to the court.]

## EMPLOYMENT DISCRIMINATION COMPLAINT

1. My address is: 4330 W 11<sup>th</sup> Ave Gary In. 46404

2. My telephone number is: (219) 678-1507

3. The Defendant's address is: 900 Gerry St. Gary In.

4. This action is brought for employment discrimination pursuant to:

☒ Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17.

[race, color, gender, religion, national origin]

☒ Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621 to 634.☐ Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12112 to 12117.☐ Other: \_\_\_\_\_

5. I filed a charge of discrimination with the Equal Employment Opportunity Commission or the Indiana Civil Rights Commission on: \_\_\_\_\_

6. The date on my Notice of Right to Sue letter is: February 25<sup>th</sup> 20227. The date I received my Notice of Right to Sue letter was: February 25<sup>th</sup> 2022

[DO NOT write in the margins or on the back of any pages. Attach additional pages if necessary.]

CLAIMS and FACTS

DO: Write a short and plain statement using simple English words and sentences.

**DO NOT:** Quote from cases or statutes, use legal terms, or make legal arguments.

DO: Explain when, where, why, and how the defendant discriminated against you.

DO: Include every fact necessary to explain your case and describe your injuries or damages.

DO: Number any documents you attach and refer to them by number in your complaint.

**DO NOT:** Include social security numbers, dates of birth, or the names of minors.

DO: Number your paragraphs. *[The first paragraph has been numbered for you.]*

1. I was advised that if I would not resign or retire that I would be terminated. I refused to resign or retire and I was terminated. I was replaced by younger workers. I believe I was terminated because of my age. I was replaced by white workers after I complained <sup>about</sup> minority community inclusion. I believe I was discriminated against because of race Black.

**RELIEF** – If you win this case, what do you want the court to order the defendant to do?

Make me whole for all lost income  
pain & suffering & Defamation of Character  
and

**DOCUMENTS** – I have attached a copy of the following documents:

- ☒ Charge Of Discrimination form filed with the Equal Employment Opportunity Commission or the Indiana Civil Rights Commission
- ☒ Notice of Right to Sue letter
- ☐ Other: \_\_\_\_\_

**FILING FEE** – Are you paying the filing fee?

- ☐ Yes, I am paying the \$402.00 filing fee. I understand that I am responsible to notify the defendant about this case as required by Federal Rule of Civil Procedure 4. [If you want the clerk to sign and seal a summons, you need to prepare the summons and submit it to the clerk.]
- ☒ No, I am filing a Motion to Proceed In Forma Pauperis and asking the court to notify the defendant about this case.

[Initial Each Statement]

RB I will keep a copy of this complaint for my records.

VB I will promptly notify the court of any change of address.

DB I declare **under penalty of perjury** that the statements in this complaint are true.

Dell Z. Battle Jr.  
 Signature

May 19, 2022  
 Date



Indianapolis District Office  
1010 West Ohio Street, Suite 1900  
Indianapolis, Indiana 46204  
(317) 999-1178  
Website: [www.eeoc.gov](http://www.eeoc.gov)

## **DETERMINATION AND NOTICE OF RIGHTS**

(This Notice replaces EEOC FORMS 161 & 161-A)

Issued On: 25 February 2022

To: Dell L. Battle Sr.  
4330 West 11<sup>th</sup> Avenue  
GARY, IN 46404

Charge No: 470-2022-01462

EEOC Representative and email: Frederick BruBaker  
Enforcement Supervisor  
[frederick.brubaker@eeoc.gov](mailto:frederick.brubaker@eeoc.gov)

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### **DETERMINATION OF CHARGE**

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

### **NOTICE OF YOUR RIGHT TO SUE**

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign-in to the EEOC Public Portal and upload the court complaint to charge 470-2022-01462.

EEOC Form 5 (11/09)

<b>CHARGE OF DISCRIMINATION</b>  This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To:      Agency(ies) Charge No(s):  <div style="display: flex; justify-content: space-between;"> <span>EEOC</span> <span><b>470-2022-01462</b></span> </div> <div style="display: flex; justify-content: space-between;"> <span>FEPA</span> <span></span> </div>	
<b>Indiana Civil Rights Commission</b> <i>State or local Agency, if any:</i>		and EEOC	
Name (indicate Mr., Ms., Mrs.) <b>Dell L. Battle Sr.</b>		Home Phone <b>219-678-1507</b>	Year of Birth <b>1960</b>
Street Address <b>4330 west 11th ave</b> <b>GARY, IN 46404</b>			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name <b>Gary Community School Corporation</b>		No. Employees, Members <b>15 - 100 Employees</b>	Phone No.
Street Address <b>900 Gerry st.</b> <b>GARY, IN 46407</b>			
Name		No. Employees, Members	Phone No.
Street Address      City, State and ZIP Code			
DISCRIMINATION BASED ON  <b>Race, Age</b>		DATE(S) DISCRIMINATION TOOK PLACE  <div style="display: flex; justify-content: space-between;"> <div>           Earliest  <b>08/13/2021</b> </div> <div>           Latest  <b>09/21/2021</b> </div> </div>	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>Im an African American individual hired on or about October 22nd, 1992, as a Pipe Fitter. My most recent position was Pipe Fitter Foreman, I reported to the Supervisor of Maintenance Barry OQuinn (White). I have met all legitimate performance objectives. Prior to OQuinn taking the position as Supervisor of Maintenance all hiring and contract awarding were conducted according to policy. Upon OQuinn taking over I noticed that open positions were being fill without the jobs being posted. For example, two panting apprentices (Black Females) were terminated and the open position for full time painter was fill (by a white male) without the job being posted. I also noticed that contracts were being awarded without going through the bid process or ensuring that the contractor was in compliance with the districts requirements (like ensuring that the contractor complied with minority community inclusion). On August 13th, 2021, I met with OQuinn and expressed my concerns with his hiring practices and failure to follow District policies. OQuinn told me that he was hiring and awarding contracts exactly how he did at his prior job and would continue to conduct these practices however he wanted. After this meeting i was replaced by an all-white contractor crew. On August 20th, 2021, I met with the Districts CFO (name UKN) (White) to discuss my concerns with how OQuinn awarded contracts. I explained that OQuinns failure to obtain multiple bids (as outlined in policy) was costing the district money. The CFO thanked me for my report and advised she would investigate the matter. On August</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY – When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.  <b>Digitally Signed By: Dell L. Battle Sr.</b>  <b>02/23/2022</b>  <div style="text-align: right;"><i>Charging Party Signature</i></div>		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT   SUBSCRIBED    AND    SWORN    TO    BEFORE    ME    THIS    DATE (month, day, year)	

EEOC Form 5 (11/09)

<p align="center"><b>CHARGE OF DISCRIMINATION</b></p> <p>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act</p> <p>Statement and other information before completing this form.</p>	<p>Charge Presented To:                      Agency(ies) Charge No(s):</p> <p align="center">EEOC    <b>470-2022-01462</b></p> <p align="center">FEPA</p>
<p><b>Indiana Civil Rights Commission</b> and EEOC</p> <hr/> <p><i>State or local Agency, if any</i></p>	

25th, 2021, I observed Carpenter Kenny Smith (Black) conducting work that by contract was mine to complete. I told Smith to stop and contacted OQuinn to find out what was going on. OQuinn told me he had directed Smith to complete the work and when I expressed issue OQuinn told me to fill a grievance if I had an issue. I Told OQuinn that if I filed the grievance, I would name him because he directed Smith to do my work violating my contract. On August 26th, 2021. I received a written warning from OQuinn alleging that I violated policy by acting aggressively when I questioned Smith (on August 25th 2021). On August 27th, 2021, I submitted a written rebuttal to the warning issued by OQuinn. I stated that I was had not acted in an aggressive manner and that OQuinn had issued the warning as a form of retaliation for me speaking up about him violating my contract and his failure to follow policy when conducting hiring and awarding contracts. I requested (per district policy) a hearing to address OQuinn's retaliation. I was on vacation from September 1st, 2021, until September 20th, 2021. On September 21st, 2021, I was directed to report to the front office where I met with OQuinn, Melissa Henderson Head or HR (Black), and the Head of Security (Black). I was advised by OQuinn that the district had decided to go a different direction and my services would no longer be needed. I was advised that I could resign/retire, or I would be terminated. I refused to resign/retire and was terminated; I was replaced by younger workers. I believe I was discriminated against because of my Race, Black, Age and retaliated against for engaging in a protected activity, in violation of Title VII of the Civil Rights Act of 1964, as amended and the Age Discrimination in Employment Act of 1967 as amended.

<p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p>	<p>NOTARY – <i>When necessary for State and Local Agency Requirements</i></p>
<p>I declare under penalty of perjury that the above is true and correct.</p> <p><b>Digitally Signed By: Dell L. Battle Sr.</b></p> <p><b>02/23/2022</b></p> <p align="right"><i>Charging Party Signature</i></p>	<p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p>SIGNATURE OF COMPLAINANT</p>  <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE</p> <p><i>(month, day, year)</i></p>